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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michelle Grandy

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EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/792,107	Applicant(s) GRANDY, MICHELLE	
	Examiner Tan Le	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 7-11, 13, 14, 17, 18 and 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12, 15-16, 19-22, 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's elections of the invention Group I, the Species of Figures 1-2 in the reply filed 6/02/08 is acknowledged. However, applicant elected the invention and species with traverse but did not state the ground of traversal as why the inventions and species are not patentably distinct. Accordingly, applicant has failed to state the position as why the inventions and species are not patentably distinct. As the results, the invention of Group I and the Species of Figs 1-2 is being examined as without traverse.

Currently, claims 1-6, 12, 15-16, 19-22 and 27-31 are readable on the elected species. Claims 7-11, 13-14, 17-18, 23-26 are withdrawn from further consideration by the Examiner, 37 CFR 1.142 (b), as being drawn to a non-elected inventions/species.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 2-6 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "a plate that attaches to the surface" and it is unclear if the surface intended to be part of the claims or if the claims are intending to be merely claim the surface. Clarification is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 12, 15-16, 19-22 and 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,377,941 to Har et al.

As to claim 1, Har et al. discloses a support frame for sink waste bags comprising a holder (26, 22, 50) (Fig. 1 for example) and a cover (32) attached to the holder wherein the cover is sized and positioned on the holder to conceal the storage unit (27) from being viewed in a first direction (top view direction).

As to claim 2, wherein the holder comprises a plate (50) for attaching to the surface (side wall, 36, 38); a ring piece (26) adapted to be attached to the plate that receives the storage unit (27) and holds the storage unit in place; and a first mounting piece (48, 46) (Fig. 1A, 1B) attached to the ring piece (by the hinge blocks 56, 58.).

As to claim 3, wherein any combination of the plate, the ring piece and the first mounting piece are detachable or capable of detaching.

AS to claims 4 and 16, wherein the cover (32) comprises a second mounting piece

(68, 70) (See Fig. 1 D) connected to the first mounting piece (46, 48) (by hinge blocks 64, 66)

As to claim 5, wherein the second mounting piece is detachable or capable of detaching from the first mounting piece.

As to claim 6, wherein the second mounting piece 68, 70 is detachable or capable of detaching from the cover 32.

As to claim 12, means (50, 52) for securing a storage unit to a surface; means (cover 32) for concealing.

As to claim 15, wherein the first direction is directed toward a front elevation (the examiner chooses the direction above the cover is a first direction).

As to claims 19-22, claims 19-22 recited limitations similar to those recite in claims 1 and 15 therefore also read on Har et al.

AS to claims 27-28, claims 27-28 are similar to those recited in claims 1 and 15, respectively, therefore also met by Har et al.

As to claims 29-30, a holder (26, 22, 50) that includes a first section (50) structured to attach to a wall (36, 38), a second section (26) structured to support a waste basket (27) above a floor adjacent to the wall; and a third section (blocks 64, 66) structured to connect to a concealing cover 32 at 68, 70; a cover 32 connected to the third section 64, 66 of the holder that includes at least one surface with dimensions equivalent to or greater than at least one surface of a wastebasket 27 supported by the holder and wherein the cover 32 is

connected to the third section 64, 66 of the holder in an orientation that hides the at least one surface of the wastebasket from being seen from at least one

direction; wherein the at least one direction is directed toward a front elevation (direction at the elevation above the cover).

As to claim 31, further comprising a wastebasket (2) connected to the second section of the holder.

Claims 1-6, 12, 15-16, 19-22 and 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,020,751 to Larkin.

As to claim 1, Larkin discloses a garbage bag and utility holder comprising a holder (14, 16, 18) (Fig. 1) and a cover (32) attached to the holder wherein the cover is sized and positioned on the holder to conceal the storage unit (27) from being viewed in a first direction.

As to claim 2, wherein the holder comprises a plate (60,) that attaches to the surface (side wall); a ring piece (14, 18) attached to the plate that receives the storage unit (50) and holds the storage unit in place; and a first mounting piece (42) (Fig. 1) attached to the ring piece.

As to claim 3, wherein any combination of the plate, the ring piece and the first mounting piece is detachable.

AS to claim 4, wherein the cover (32) comprises a second mounting piece (36) (see Fig. 1) connected to the first mounting piece (42) (connected to 18 where 18 connected to 42 is therefore connect to 42).

As to claim 5, wherein the second mounting piece is detachable from the first mounting piece.

As to claim 6, wherein the second mounting piece (40) (nut) is detachable from the cover.

As to claim 12, means (60, 42, 14) for securing a storage unit to a surface; means (cover 32) for concealing.

As to claim 15, wherein the first direction is directed toward a front elevation (the examiner chooses the direction above the cover is a first direction).

As to claim 16, further comprising a second mounting piece (36) structured to attach to the cover and the first mounting piece (42).

As to claims 19-22, claims 19-22 recited limitations similar to those recite in claims 1 and 15 therefore also read on Larkin.

AS to claims 27-28, claims 27-28 are similar to those recited in claims 1 and 15, therefore also read on Larkin.

As to claims 29-30, a holder (fig. 1) that includes a first section (60) structured to attach to a wall (58), a second section (14, 18, 42) structured to support a waste basket (50) above a floor adjacent to the wall; and a third section (36) structured to connect to a concealing cover 32; and a cover 32 connected to the third section of the holder that includes at least one surface with dimensions equivalent to or greater than at least one surface of a wastebasket 50 supported by the holder and wherein the cover 32 is connected to the third section of the holder in an orientation that hides the at least one surface

of the wastebasket from being seen from at least one direction; wherein the at least one direction is directed toward a front elevation (direction at the elevation above the cover).

As to claim 31, further comprising a wastebasket (2) connected to the second section (14, 18, 42) of the holder.

Response to Arguments

Applicant's arguments with respect to objections and 112 rejections have been considered. However, upon further consideration the new ground(s) of rejection is made. Accordingly, this action is made Non-Final.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.

The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen J. Shriver can be reached on (571) 272-6689. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tan Le/
Examiner, Art Unit 3632

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632